

U.S. Department of Housing and Urban Development Office of Public and Indian Housing

Special Attention of: Notice PIH-2008-12 (HA)
Regional and Field Office Directors of Public

Housing; Section 8 Financial Management Center; Multifamily Hub Directors; Multifamily Program

Center Directors; Public Housing Agencies Administering Housing Choice Voucher Programs; Owners/Agents; Regional Directors;

and State and Area Coordinators

Issued: February 15, 2008

Expires: February 28, 2009

Cross References:

HUD Notice PIH 2001-41(HA)

Subject: Enhanced Voucher Requirements for Over-housed Families

1. <u>Purpose</u>. This notice sets forth the enhanced voucher policies that are applicable to families residing in units where the actual number of bedrooms exceeds the family unit size for which the family qualifies under the public housing agency (PHA) subsidy standards (i.e., "over-housed families").

These new policies are effective prospectively from the issuance date of this notice and supersede the previous policies set forth in HUD Notice PIH 2001-41 that concern overhoused enhanced voucher families. These policies apply to both enhanced voucher families that are determined to be in an over-housed situation in the future, as well as any over-housed family where the enhanced voucher subsidy is currently based on the gross rent of the over-sized unit.

2. <u>Background.</u> HUD provides tenant-based rental assistance in order to assist eligible residents that are affected by several different types of owner or HUD actions in HUD's Office of Multifamily Housing programs (collectively referred to as "Housing conversion actions"). Depending on the Housing conversion action and subject to the availability of appropriations, eligible families receive either regular voucher assistance or enhanced voucher assistance to mitigate the impact of the conversion action on the family's rent. Enhanced vouchers are primarily provided in the case of preservation prepayments and Section 8 project-based contract opt-outs.¹

_

¹ Preservation prepayments are cases where the owner of a preservation eligible property (generally section 236 and section 221(d)(3) projects) is prepaying the mortgage or voluntarily terminating the mortgage insurance. Section 8 project-based opt-outs are situations where an owner chooses to end participation in certain programs by either opting-out of or not renewing certain expiring Section 8 project-based contracts.

Enhanced voucher assistance under Section 8(t) of the United States Housing Act of 1937 is calculated differently from regular housing choice voucher assistance if the family remains in the project. A higher "enhanced" payment standard is used to determine the amount of the monthly subsidy in cases where the gross rent of the unit exceeds the normally applicable PHA payment standard. In such instances, the gross rent for the unit is used in the monthly subsidy calculation instead of the normally applicable payment standard.²

3. Voucher Issuance and PHA Determination of the Family's Over-housed Status.

Under a Housing conversion action, the PHA issues an eligible family an enhanced voucher based on the PHA subsidy standards (see 24 CFR §982.402), not the actual size of the unit the family is currently occupying. If the bedroom size of the family's unit exceeds the number of bedrooms for which the family qualifies under the PHA subsidy standards, the family is an over-housed family.

If an over-housed family chooses to move from the project at any time, the normal tenant-based voucher program rules apply to the subsidy calculation for the new unit. In such a case, the payment standard is the <u>lower</u> of the payment standard for the family unit size under the PHA subsidy standards or the payment standard for the actual size of the unit rented by the family (see 24 CFR §982.402(c)). However, if an over-housed family wishes to remain at the project, the regular voucher program requirements regarding the payment standard are not applicable and the provisions of this notice apply.

4. Availability of Appropriate Size Units in the Project. Once the PHA determines the family is over-housed, the PHA must inform the family and explain the requirements under this notice. If the family indicates it wishes to remain at the project with enhanced voucher assistance, the PHA must inform the owner of the project that the family is in an over-sized unit. The PHA must also provide the owner with the bedroom size for which the family actually qualifies under the PHA subsidy standards (i.e., the appropriate size unit). The owner must then identify all appropriate size units that are available in the project.

The over-housed family must move to an appropriate size unit in the project if one is available in order to receive enhanced voucher assistance.³ The family and owner will enter into a lease and PHA will execute a voucher housing assistance payments (HAP) contract on behalf of the family for the appropriate size unit to which the family moves. The enhanced voucher housing assistance payment calculation is based on the gross rent of the appropriate size unit.

§5.630). ³ In order to be considered an available unit, the unit must not only be available for occupancy by the family but must meet all voucher program requirements, including but not limited to rent reasonableness and housing quality standards.

2

² The housing assistance payment calculation for an enhanced voucher family remaining in the project is the gross rent of the unit minus the greatest of (a) 30 percent of adjusted monthly income; (b) 10 percent of monthly income; (c) the welfare rent in as-paid states; (d) the enhanced voucher minimum rent (see HUD Notice PIH 2001-41, section II.c.3 for further details); or (e) such other minimum rent established by the PHA (see 24 CFR §5.630).

If an over-housed enhanced voucher family refuses to move to the appropriate size unit, the PHA will calculate the family's housing assistance payment for the oversized unit based on the normally applicable voucher subsidy formula using the applicable payment standard established by the PHA for its voucher program (see 24 CFR §982.402(c) and (d)). The family will be responsible for any amount of the gross rent not covered by the housing assistance payment.

- 5. No Appropriate Size Units Currently Available in the Project. If there is no appropriate size unit currently available for the family in the project, the PHA executes a voucher HAP contract on behalf of the family for the oversized unit, provided the rent is reasonable and the unit complies with all other voucher program requirements such as the housing quality standards. The enhanced voucher housing subsidy calculation is based on the gross rent for the oversized unit. The subsidy calculation will continue to be based on the gross rent (including subsequent rent increases) for the oversized unit an appropriate size unit in the project becomes available for occupancy by the family.
- 6. Actions when Appropriate Size Units Subsequently Become Available in the Project. The owner must immediately inform the PHA and the family when an appropriate size unit will become available in the project. When an appropriate size unit becomes available, the enhanced voucher family residing in the oversized unit must move to the appropriate size unit in a reasonable time (as determined by the PHA) to continue to receive enhanced voucher assistance. The family and owner will enter into a new lease and the PHA will execute a new voucher HAP contract with the owner for the appropriate size unit. The enhanced voucher subsidy calculation is based on the gross rent for the appropriate size unit.

If an over-housed enhanced voucher family refuses to move to the appropriate size unit, the PHA will recalculate the family's housing assistance payment for the oversized unit based on the normally applicable voucher subsidy formula using the applicable payment standard established by the PHA for its voucher program (see 24 CFR §982.402(c) and (d)). The family will be responsible for any amount of the gross rent not covered by the housing assistance payment.

- 7. Decrease in Family Size or Change in Family Composition. If, as a result of a decrease in family size or change in family composition, an enhanced voucher family subsequently becomes over-housed, the same policy regarding over-housed enhanced voucher families would apply. The family would continue to receive enhanced voucher assistance in the oversized unit until such time that an appropriate size unit becomes available for occupancy by the family in the project.
- 8. Number of Over-housed Families Exceeds the Availability of Appropriate Sized Units in the Project. If there are more over-housed families than the number of available appropriate size units at any given time, the PHA determines the process for deciding the order in which over-housed families shall be required to move to the

3

⁴ This is assuming the unit remains under the voucher HAP contract and all program requirements (such as rent reasonableness) continue to be met.

appropriate size unit (e.g., lottery, length of time the family had been living in the oversized unit, age or frailty of family, etc.).

9. Questions. Inquiries about this Notice should be directed to staff in the Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, at (202) 708-0477.

Paula O. Blunt, General Deputy Assistant Secretary for Public and Indian Housing